

JUSTICE POLICY INSTITUTE

TESTIMONY BY MARC SCHINDLER
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PENDING RAISE THE AGE BILLS

COMMITTEE ON LAW AND JUSTICE

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100 N Capitol Avenue

Lansing, MI 48933

Thank you, Chairman Kesto and other Committee members, for allowing me to provide testimony related to the various "Raise the Age" bills being offered. I am writing at this time to offer my support of the Raise the Age legislative package, which encourages raising the age of criminal court jurisdiction.

By way of background I have been fortunate in my career that I have had the opportunity to view the justice system and the issue of violence in our communities from several different angles, and therefore I come to this issue today from a number of different perspectives.

Currently, I am Executive Director of the Justice Policy Institute (JPI), a national research and policy organization dedicated to reducing the use of incarceration in the juvenile and criminal justice systems. I held several leadership roles within the DC Department of Youth Rehabilitation Services (DYRS), including serving as General Counsel, Chief of Staff and Interim Director between 2005 and 2010. Prior to working at DYRS, I spent eight years as a staff attorney with the Youth Law Center, a national civil rights law firm, where I advocated at the national and state level on issues related to conditions of confinement, racial disparities, indigent defense and other juvenile justice issues. While at the Youth Law Center I also had the honor of serving as co-chair of the

National Juvenile Justice and Delinquency Prevention Coalition, where I worked closely on issues related to reauthorization of the federal Juvenile Justice & Delinquency Prevention Act. Prior to joining JPI, for three years I was a partner with Venture Philanthropy Partners (VPP), a Washington-based philanthropic organization. While there I led VPP's Social Innovation Fund youthCONNECT initiative – a five year \$40 million dollar innovative philanthropic effort aligning public-private capital, evaluation, and high performing non-profit organizations to improve the education, employment and health outcomes of 14-24 year old disconnected youth in the Washington metro region. I have also served on numerous boards and commissions in the District, including as a board member of the DC Office of Police Complaints, and most recently on the Mayor's Safer, Stronger Advisory Board and as a member of Progressive Life's Advisory Board for DC Youth Link.

I would like to start by commending the Committee and Michigan's entire legislature for recognizing the national trend to increase the juvenile age of jurisdiction to eighteen years old. Concerns of public safety and costs have been echoed in Michigan as well as in other states across the United States, but I am hopeful that this testimony will serve to help advance the conversation in Michigan into legislative reform.

Context

In 2017, the Justice Policy Institute conducted research into what it takes to successfully 'Raise the Age' without significantly impacting public safety or costs. There are multiple reasons why places that raised the age avoided many of the predictions that the juvenile justice system would be overwhelmed, and why places considering raise the age proposals, including Michigan, can proceed with the understanding that outcomes can be managed effectively:

- **Juvenile crime is falling:** In the last decade, juvenile crime in Michigan has fallen nearly 60 percent.¹ This is a common trend across the country, including in the states that have already changed policy. This provides states with more capacity to manage the jurisdictional change without overwhelming the system. With crime continuing to fall, and research showing that young people are less likely to reoffend when they avoid the adult system, the safer approach is keeping all youth under juvenile jurisdiction.
- **Fiscal impacts on raise the age proposals were limited:** Many of the cost estimates that showed a substantial increase in spending were over-blown. This was because estimates did not account for the reduced rates of reoffending and

¹ FBI UCR

other associated costs savings that all states that have increased their age boundary experienced.

- **Resources were reallocated from confinement to community-based approaches:** When a state shifts its focus from confinement to the community, resources are made available to reinvest. Over the years, there is ample research to suggest that youth are better served in the community. This narrative change has influenced many states, including Michigan, to expand services in the community, which has enhanced the capacity for state systems to absorb 17-year-olds.

Even with the absorption of 17-year-olds, states were able to manage the changes without negatively impacting public safety and the financial infrastructure. This is partly based on changes not being limited to legislation, but part of a larger juvenile justice reform effort each state, including Michigan, has been engaged in for years. JPI's research showed that juvenile systems in many states are moving towards a developmentally appropriate approach, consistent with recommendations by the National Research Council of the National Academy of Sciences, which has said that that raising the age is part and parcel of the kind of approaches systems should be moving towards. JPI's research found that such approaches result in better 'public safety and stronger youth development outcomes, and are the same set of strategies that help states manage jurisdictional change.

Is Michigan ready to Raise the Age?

Every state has its own method of reform, and not every state used the exact same formula to shift to a more developmentally appropriate approach. However, states like Michigan that are still debating the impacts of Raise the Age legislation appear to have implemented the type of reforms that helped Connecticut, Massachusetts, and Illinois prepare their system for a jurisdictional increase.

In the report, we identified seven strategies of serving youth more effectively, which resulted in better public safety and youth outcomes. Michigan has already engaged in four of these strategies, demonstrating that the state is poised to move forward to raise the age.

I. Expanding the use of diversion

Every year, nearly one million youth are arrested, with nearly 95 percent arrested for non-violent offenses.² Research shows that a young person who is arrested or adjudicated has a greater likelihood of reoffending or being confined.³ With confinement associated with a host of unintended consequences, effective diversion strategies, pre- and post-arrest, can provide meaningful opportunity to address a young person's behavior outside of the justice system.

Rather than needlessly drive up law enforcement, court and juvenile corrections costs, some Michigan counties are diverting more young people from the system, and instead, are connecting youth with community-based services based on their needs. In order to grow pre-arrest and pre-adjudication diversion options, Michigan established fiscal incentives to help communities build options. With appropriate fiscal support, Wayne County was able to divert nearly 600 kids in 2009 from unnecessary contact with the system.⁴

Increased reliance on diversion has made Michigan's justice system more effective overall, reduce confinement costs, and can help prepare the system for a slightly older population.

II. Addressing young people's mental health needs outside the deep end of the system

Effective systems connect youth to community-based mental health services and helps them get the treatment they need in a way that does not rely on confinement. In many cases, when youth with a mental health challenge come to the attention of law enforcement, it can lead to confinement. The status quo reaction is why some estimates show that 70 percent of youth in the juvenile justice system are affected with a mental health challenge, compared to 20 percent in the general population.⁵

An alternative narrative suggests that adequately serving youth's behavior and mental health needs in the community will result in a more effective, less costly juvenile system. This is the approach towards which many Michigan jurisdictions have already shifted. Wayne County has modeled an approach that helps youth access mental health

² N.A., Statistical Briefing Book: Juvenile Arrests (Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, 2014)

³ Frazier, C.E. and Cochran, J.K., "Detention of Juveniles: Its Effects on Subsequent Juvenile Court Processing and Decisions," 26 Youth and Society 17, no.3 (1986): 286-305.

⁴ <https://www.acgov.org/probation/documents/WayneCountyReforms.pdf>

⁵ Fred Meservey and Kathleen Skowrya, Caring for Youth with Mental Health Needs in the Juvenile Justice System: Improving 84 Knowledge and Skills (Delmar NY: National Center for Mental Health and Juvenile Justice, 2015) N.A., Mental Health Facts Children and Teens (Alexandria, VA: National Alliance on Mental Illness, 2014)

treatment by linking nonprofits together to deliver services for youth, families and their community. The Wayne County model is credited with helping reduce the number of youth placed in public training school facilities from 731 in 1998 to just two in 2010.⁶ This model is also responsible for lowering taxpayer costs by reducing juvenile confinement that is solely funded by the state; instead the program relies on pooled health and child welfare services that share the costs with the federal government.⁷

Furthermore, Berrien County has partnered with law enforcement, mental health and child welfare agencies to largely address young persons' health needs outside the justice system, which has reduced the out of home placements from 125 in 2001 to 40 in 2015.

Overall, the resources Michigan has saved from directing mental health services into the community can help support raising the age of jurisdiction.

Reducing reliance on facilities and shifting resources to community-based approaches

There were half as many young people confined nationally in 2015 as there were in 1997.⁸ One of the reasons for this decrease is that jurisdictions are now relying on community-alternatives. Rather than removing youth from the home, a number of systems experienced positive financial and public safety outcomes from the use of community-strategies. In order to achieve adequate community supervision many states have shared a common set of strategies including significantly shortening length of stay in the system, prohibiting confinement for certain behaviors, developing fiscal incentives to implement community options and reallocating money saved from reduced confinement into serving youth locally. Michigan is no different.

Michigan has spent years ramping up its emphasis on community-based approaches and moved away from relying on confinement. The Michigan Child Care Fund (MCCF) established a fiscal incentive and funds community services through a 50 percent cost-share between the state and county. In 2012, MCCF allocated nearly \$400 million to support programs throughout the state. Midland County used MCCF funds to shift their focus to expanding community-based approaches, such as Multisystemic Therapy.

⁶ Wayne County, "Child & Family Services of Wayne County," n.d., <https://www.acgov.org/probation/documents/97WayneCountyReforms.pdf>

⁷ Kristen Staley and Michelle Weemhoff, *There's No Place like Home*. Michigan Council on Crime and Delinquency (Lansing, 98 Michigan: Michigan Council on Crime and Delinquency, 2012). See <http://miccd.org/wp-content/uploads/2013/10/No-PlaceLike-Home-MCCD2013.pdf>.

⁸ Easy Access to The Census of Juvenile in Residential Placement: 1997 – 2013, "The Office of Juvenile Justice and Delinquency 135 Prevention," 2013. See also, Eli Hager, "There are still 80 'youth prisons' in the U.S. Here are five things to know about them" The Marshall Project, March 3, 2016.

Based on the emphasis around community, from 2008 to 2011, the county saved \$2.1 million and saw the number of adjudicated offenses or probation violations drop 77 percent.⁹

Whether it's through involvement in MCCF's fiscal incentives or Wayne County displaying a significant drop in length of stay, Michigan counties have helped the state system build the capacity to absorb older youth.

Improving the juvenile justice systems' management of resources, and strengthening strategies to serve young people more effectively

When a system makes better use of tools that can assess what a youth might need to move past delinquency, and can analyze what is working to help change their behavior, systems can shift to a system that has the capacity to absorb youth currently not under their jurisdiction. In the past, systems did not have access to these tools, and many individuals were unnecessarily confined. Today, many states including Michigan, are increasingly relying on objective tools to help implement new management strategies to run their systems more efficiently, and consequently more easily absorb new roles and responsibilities that are associated with 17-year-olds.

As previously indicated, Michigan has increased use of tools to detect youth who might have substance abuse or mental health issues, and have used that information to more effectively refer for treatment, rather than using confinement.

JPI's research shows that Michigan's juvenile justice system reform efforts in recent years has helped create a dynamic upon which the state appears ready to safely and cost-effectively increase the age of jurisdiction.

The costs to taxpayers have been overstated

Michigan is faced with its own unique circumstances and challenges in the wake of raising the age. However, it is important to put the context of the cost into perspective by using lessons learned from other states. Of the states that implemented legislative change, four of them received pushback and concern about the costs to taxpayers. However, in each of those states, the estimated costs never materialized.

Connecticut

⁹ Kristen Staley and Michelle Weemhoff, *There's No Place like Home*, Michigan Council on Crime and Delinquency (Lansing, 149 Michigan: Michigan Council on Crime and Delinquency, 2012). <http://miccd.org/wp-content/uploads/2013/10/No-Place-LikeHome-MCCD2013.pdf>; see also, Allen, D. (2011) Annual Report. Midland, MI: Circuit Court, Family Division, Midland County Probate Court.

In Connecticut, a fiscal note for its legislation estimated that \$100 million of taxpayer money would be needed to fully implement the change.¹⁰ However, that appropriation never occurred. In fact, spending on the system in Fiscal Year 2001 – 02 was \$139 million, by Fiscal Year 2011 – 12, the spending dropped to \$137 million.¹¹

Massachusetts

When Massachusetts' legislation was first contemplated, the Juvenile Court Administrative Office projected that the system would need three dozen new probation officers or supervisors, eight new judicial positions, more clinicians at the Juvenile Court Clinics, as well as an additional 197 beds in 14 programs across the state. Altogether, the estimated increase would have cost taxpayers \$24.57 million. However, the actual cost turned out to be much lower. In 2013, while the budget increased the Department of Youth Services' annual allocation to \$15.6 million, that was still 37 percent less than the original estimate. Put into context, the allocation was less than nine percent of the overall juvenile justice budget.¹²

Illinois

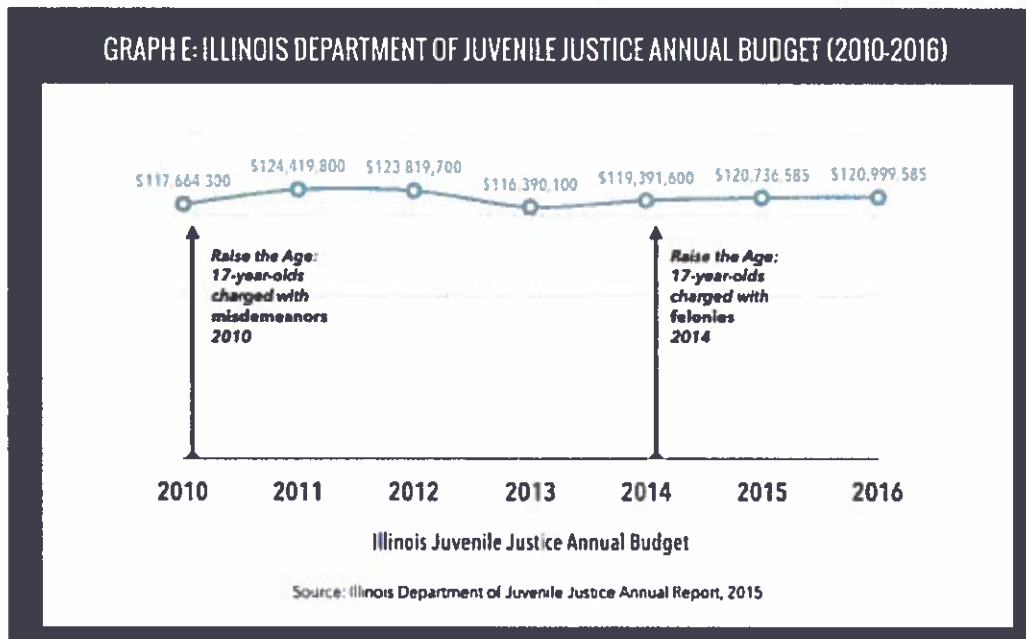
The Cook County State's Attorney's Office opposed changing the age of jurisdiction for 17-year-olds charged with misdemeanors due to financial concerns. Based on an estimated number for future caseloads, the office stated it would need an additional \$855,153 a year to fund courtrooms and Assistant State's Attorneys. In the end, no additional courtrooms or attorneys were needed as the system's population continued to shrink.¹³ Furthermore, Illinois Department of Juvenile Justice's budget has remained flat over two implementations of raise the age.

¹⁰ "Sections 73-88 implement the budget, which contains approximately \$16 million over the biennium to hire staff and build 168 service capacity in advance of the effective date, January 1, 2010, to raise the age of juvenile jurisdiction to include 16 and 17 year olds. Estimated state costs in the next biennium are \$36 million in FY 10 and \$78.5 million in FY 11. Estimated costs in FY 12 are approximately \$100 million (fully annualized)." See, Fiscal Note for Public Act 07-4, Connecticut General Assembly, [http:// www.raisetheagect.org/resources/fiscal-note.pdf](http://www.raisetheagect.org/resources/fiscal-note.pdf)

¹¹ Richard A. Mendel, *Juvenile Justice Reform in Connecticut: How Collaboration and Commitment have Improved Public Safety 169 and Outcomes for Youth* (Washington, D.C.: Justice Policy Institute, 2013)

¹² "It is estimated by Probation that 27 Probation Officers would be required in order to supervise the additional caseload 172 created by adding 17-year-olds to the juvenile court. 27 Probation Officers at entry level, total, \$1,415,718. 5 Assistant Chief Probation Officers, \$460,160. Total, \$1,875,878... Juvenile Court Clinics. 5-7 full time equivalent clinicians each of who manage 50-65 referrals a year. In addition, staff may be needed to expand treatment capacity/services within court clinics for transitional age youth, and specialized problem solving court modalities may utilize the court clinic expertise. We estimate needing 9-12 additional forensic mental health professionals that include a part-time psychiatrist, psychologists and master level clinicians. Capital expenses (e.g. laptops, furniture), projected costs for additional staffing, training and related expenses, overhead. Total, \$1,158,500-\$1,486,000... The DYS projects that this additional detained and committed population will generate a net bed need of 197 beds in 14 programs for a total annual operating cost of \$20.5 million." *Impact of Raising the Age of Responsibility in the Commonwealth of Massachusetts from 17 to 18* (Boston, Massachusetts: The Commonwealth of Massachusetts Administrative Offices of the Juvenile Court, 2013).

¹³ Office of the State's Attorney, Memo - SB 2275 Juvenile Offender Age Change, May 30, 2008



New Hampshire

Juvenile Justice Services estimated that absorbing 17-year-olds into the juvenile system would cost nearly \$5.3 million in the first year of implementation and each year thereafter. Since then, however, no new dollars have actually been required to serve the older population.

Since every state juvenile justice system is unique, the reasons vary as to why the fiscal estimates never fully materialized. But there are a couple of common factors that helped each system raise the age without significantly impacting their financial infrastructure: there is an inherent limitation to fiscal notes and estimates; there is difficulty in projecting real long-term costs and benefits of shifting juvenile policy; there has been a historic drop in juvenile crime; and there is an ongoing effort in each state, including Michigan, to reallocate resources from confinement to community-based approaches.

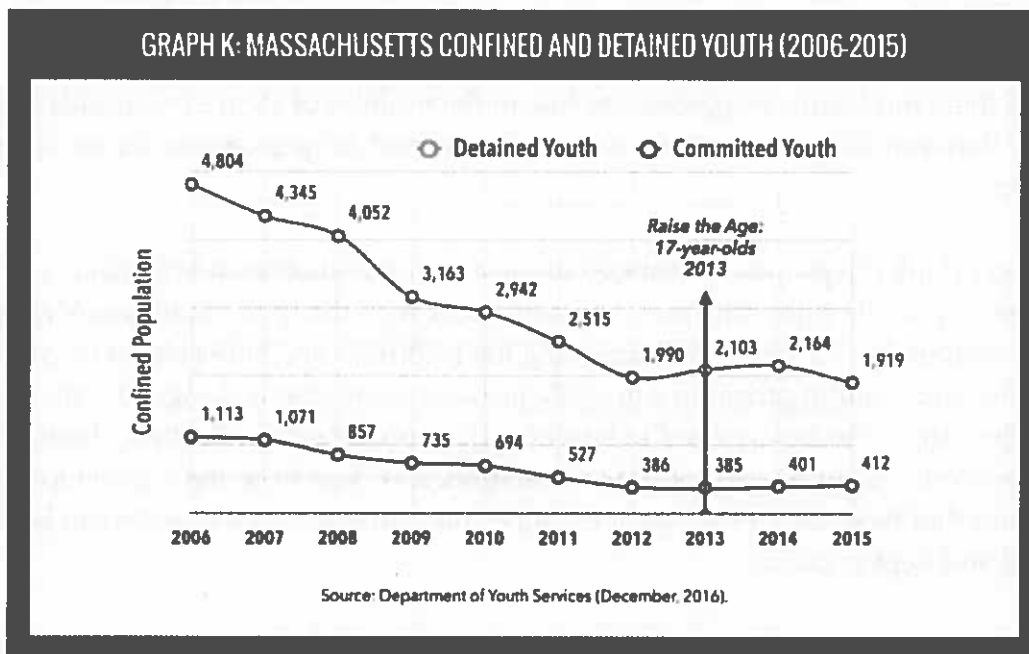
States have experienced better outcomes

States that have taken the biggest steps to ensure that young people once in the adult criminal justice system are now back in the youth justice system have experienced good public safety outcomes.

Connecticut, Illinois, and Massachusetts – the first three states to raise the age – outperformed the rest of the country in juvenile crime declines for violent and property crime. The United States average decline since 2006 was 29 percent for violent crime,

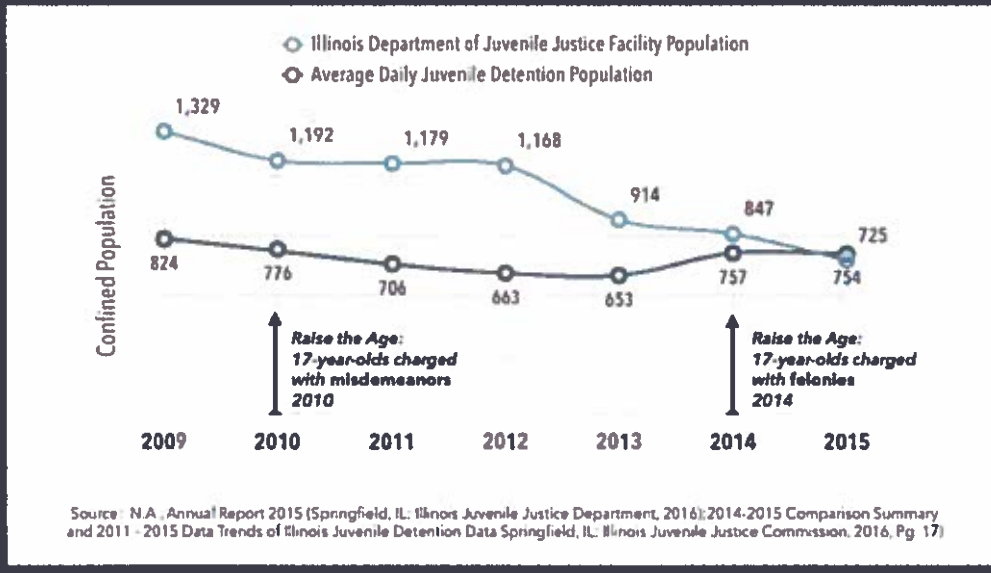
but both Connecticut and Illinois experienced a 60 percent decline. The latest data from the Federal Bureau of Investigations, which calculates youth as anyone under eighteen, indicates there has been a 52 percent decrease in Michigan violent crime since 2007.¹⁴

Juvenile confinement has also fallen in each state that has raised the age. The concern that systems would be overwhelmed by jurisdictional change has been unfounded. By continuously shifting policy to more effectively serve youth, the capacity has been enhanced to handle an age increase in the age of jurisdiction. For example, in both Illinois and Massachusetts, there was a slight uptick in the juvenile justice system population when 17-year-olds were handled in the juvenile justice system, but the population then evened out due to the capacity and alternatives already developed.



¹⁴ FBI UCR

GRAPH J : ILLINOIS JUVENILE JUSTICE CONFINEMENT 2009-2015



There is also evidence to suggest that better serving youth in the appropriate setting will positively impact outcomes in the adult criminal justice system. According to Connecticut's Office of Policy Management Criminal Justice Policy and Planning Division, there has been a 54 percent decline in the number of 18 to 21 year olds in adult facilities. Between 2008 and 2014, there was a 44 percent drop in arrests for the same population.

In closing, I think the proposed change to the age of jurisdiction in Michigan is an important step in the right direction, and consistent with the type of reforms Michigan has been engaged in for years. By improving the resources and supervision for youth in the system, and handling them in a juvenile justice system that is designed with their age in mind, there can be expected to be a benefit to public safety. Further, though there may be concerns about the cost of implementation, it is clear from the experiences in other states that have raised the age of juvenile court jurisdiction that costs can be managed and kept in check.

I encourage passage of the reforms being considered and please feel free to contact me if we can be of any assistance moving forward.